

REMARKS

In response to the above Office Action, claim 1 has been amended to clearly distinguish the claim from the cited prior art. Support for this cannot only be found in former claim 1, but in original claim 1 as well as the description of the invention and FIG. 3.

More specifically, main claim 1 now recites that the means for moving the upper frame also moves the cluster of the plurality of extending rollers located therein and that it moves them in an up and down direction and toward and away from the lower frame and the food-conveying member located therein, so that the cluster of the plurality of extending rollers can be moved upwardly and away from the food conveying member.

In other words, as shown, for example in FIG. 3, the cluster of rollers 33 can be moved upwardly and away from the food-conveying member 11 by the upper frame 5 of the device pivoting about shaft 47. As noted in the last reply, this permits the device to be readily and easily cleaned. See, for example, page 2, lines 9-11, page 7, last three lines, or page 10, last paragraph.

A conforming amendment has also been made to claim 8.

Since the application is under final rejection, a Request for Continued Examination is also being filed simultaneously with this response to permit the Examiner to consider the amended claims.

In the Office Action the Examiner rejected claims 1 and 8 under 35 U.S.C. §103 for being obvious over U.S. Patent No. 4,260,578 to Moody.

Moody relates to a device for making sheet material. In the device, tubular molten material is extruded from an extruder 40, slit on one side by a blade 48 and then fed to the nip of rollers 16 and 18 where it is flattened to the desired thickness and

width. The gap between rollers 16 and 18 is adjustable by raising and lowering lower roller 18 with respect to roller 16 by cylinder 13 and/or for fine adjustments by the assembly 23 shown in FIG. 4. In either case, only roller 18 located in bearing block 22 moves. Roller 16 in bearing block 21 "is fixed in position" (column 2, line 12 of Moody).

Even though Moody relates to an entirely different type and kind of device, the Examiner nevertheless believes applicants' invention would be obvious in view of it.

The Examiner first equates applicants' claimed cluster of rollers to Moody's rollers 16 and 18, the roller 16 being in an upper frame 12 and the roller 18 in a lower frame 15. Then maintains that the assembly in FIG. 4 permits the upper roller "to be moveable away" from the lower roller.

However, and in contrast and as claimed, applicants cluster of rollers is "located within the upper frame" and the rollers of the cluster do not move with respect to each other. Nor are any of the rollers located in a "lower frame." Rather, the food-conveying member is located in the "lower frame" and the cluster of rollers is moveable with respect to it. Thus it is not seen how Moody's rollers 16 and 18 could be the equivalent of applicants' claimed cluster of rollers.

The Examiner then equates Moody's extruder 40 to applicants' food conveying member (Page 3, line 2 of the Office Action). It hardly seems to be anything similar to a food-conveying member, but even if it is for the sake of argument, Moody's rollers 16 and 18 together as a cluster do not move relative to extruder 40. This distance is fixed as shown in FIG. 1. Nor, as a consequence, could they be considered to move "upwardly and away from the food-conveying member" as claimed.

As required by M.P.E.P. §2143, to establish a prima facie case of obviousness, the prior art reference relied on must show or suggest all of the claimed limitations.

Since Moody fails to suggest, inter alia,

- 1) a cluster of rollers located in an upper frame; and
- 2) means for moving the upper frame and the cluster of rollers located therein in an up and down direction and toward and away from a lower frame, in which a food conveying member is located so that the cluster of rollers can be moved upwardly and away from the food-conveying member; it is not seen how claim 1 can be considered obvious in view of Moody.

The withdrawal of Moody as a ground of rejection of claim 1 under §103(a) is therefore requested.

Claim 8 further defines the invention over Moody. Moody may pivotally move the upper frame 12 and roller 16 with respect to lower frame 15 and roller 18 by the assembly of FIG. 4, but roller 16 is not a cluster of rollers as claimed. Rather, it is a single roller.

The Examiner cannot on the one hand maintain that both rollers 16 and 18 of Moody are the equivalent of applicants' cluster of rollers and at the same time maintain that the pivotable movement of roller 16 away from rollers 18 in Moody is somehow the equivalent of applicants pivotable movement of the cluster of rollers away from the food-conveying member. It is therefore submitted that claim 8 and claim 9 depending therefrom are also not obvious in view of Moody.

Claims 2-4 depend from claim 1 and are believed to be patentable over the cited combination of Moody in view of Hayashi and Morikawa for at least the reasons claim 1 is patentable over Moody.

It is submitted claims 1-4, 8, and 9 are in condition for allowance.

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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